

AMENDED IN ASSEMBLY APRIL 22, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 479

Introduced by Assembly Member Chesbro

February 24, 2009

An act to amend Sections 41780 and 48000 of, and to add Sections 41780.01, 42649, and 48001.5 to, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 479, as amended, Chesbro. Solid waste: diversion.

(1) The California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, requires each city, county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan containing specified components, including a source reduction component, a recycling component, and a composting component. With certain exceptions, the source reduction and recycling element of that plan is required to divert 50% of all solid waste from landfill disposal or transformation by January 1, 2000, through source reduction, recycling, and composting activities.

Existing law requires the board to review, at least once every 2 years, a jurisdiction's source reduction and recycling element and household hazardous waste element. The board is required to issue an order of compliance if the board finds that a jurisdiction has failed to implement its source reduction and recycling element or its household hazardous waste element, pursuant to a specified procedure. If, after issuing an order of compliance, the board finds the city, county, or regional agency has failed to make a good faith effort to implement those elements, the

board is authorized to impose administrative civil penalties upon the city, county, or regional agency.

This bill would require a city or county to divert 60% of all solid waste through source reduction, recycling, and composting activities on and after January 1, 2015, thereby imposing a state-mandated local program by imposing new duties on local agencies regarding solid waste management. The bill would also require the board to establish policies, programs, and incentives to ensure diversion of solid waste in accordance with a specified schedule.

(2) Existing law requires a local agency to impose certain requirements on an operator of a large venue or event to facilitate solid waste reduction, reuse, and recycling.

This bill would require the owner or operator of a business that contracts for solid waste services and generates more than 4 cubic yards of total solid waste and recyclable materials per week to arrange for recycling service, consistent with state and local laws and requirements, to the extent that these services are offered and reasonably available from a local service provider. The bill would require specified local agencies, by January 1, 2011, to adopt commercial recycling ordinances that include certain minimum requirements.

The bill would impose a state-mandated local program by imposing new duties upon local agencies with regard to the adoption of commercial recycling ordinances.

(3) The act requires an operator of a solid waste disposal facility to pay a quarterly fee of up to \$1.40 per ton based on the amount of all solid waste disposed of at each disposal site and requires the State Board of Equalization to collect the fees and deposit the fees in the Integrated Waste Management Account in the Integrated Waste Management Fund in the State Treasury. The act requires the board to use the moneys in the account, upon appropriation by the Legislature, for specified purposes.

This bill would, on and after January 1, 2010, establish the amount of the fee in an amount of \$3.90 per ton and would require \$2.50 of that fee after that date to be available for expenditure by the board, upon appropriation by the Legislature, for apportionment to jurisdictions, as specified.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares both of
2 the following:

3 (1) Since the enactment of the California Integrated Waste
4 Management Act of 1989 (Division 30 (commencing with Section
5 40000) of the Public Resources Code), local governments and
6 private industries have worked jointly to create an extensive
7 material collection and recycling infrastructure and have
8 implemented effective programs to achieve a statewide diversion
9 rate above 50 percent.

10 (2) Although the state now leads the nation in solid waste
11 reduction and recycling, the state continues to dispose of more
12 than 40 million tons of solid waste each year, which is more than
13 the national average on a per capita basis. Additional efforts must
14 be undertaken to divert more solid waste from disposal in order
15 to conserve scarce natural resources.

16 (b) The Legislature further finds and declares all of the
17 following:

18 (1) Approximately 64 percent of the state's solid waste disposal
19 is from commercial sources, including commercial, industrial,
20 construction, and demolition activities. In addition, 8 percent of
21 the state's solid waste disposal is from multifamily residential
22 housing that is often collected along with the commercial waste
23 stream.

24 (2) The state's local governments have made significant progress
25 in reducing the amount of solid waste disposal from single-family
26 residential sources that make up 28 percent of the state's disposal,
27 but have faced more challenges in reducing disposal from the
28 commercial and multifamily sources.

29 (3) The disposal of commercial solid wastes harms natural
30 resources, negatively impacts the state's environment, prevents
31 materials from circulating in the state economy to produce jobs
32 and new products, and contributes to global warming.

1 (4) The state has long been a national and international leader
2 in environmental stewardship efforts and mandating the diversion
3 of solid waste away from disposal. Bold environmental leadership
4 and a new approach are needed to divert commercial solid waste
5 away from disposal.

6 (5) By exercising a leadership role, the state will lead the
7 business community toward a future in which the environment
8 and the economy both grow stronger together by recycling
9 materials, which creates new jobs, instead of burying resources,
10 which exit the economy forever.

11 (6) By requiring commercial recycling, the state will help
12 businesses reduce costly disposal fees and reclaim valuable
13 resources.

14 (7) Solid waste diversion and disposal reduction requires the
15 availability of adequate solid waste processing and composting
16 capacity.

17 (8) The existing network of public and private solid waste
18 processing and composting facilities provides a net environmental
19 benefit to the communities served, and represents a valuable asset
20 and resource of this state, one that must be sustained and expanded
21 to provide the additional solid waste processing capacity that will
22 be required to achieve the additional solid waste diversion
23 mandates expressed in Section 41780 of the Public Resources
24 Code as amended by this act.

25 (9) It is the intent of the Legislature to encourage the
26 development of the additional solid waste processing and
27 composting capacity that is needed to meet state objectives for
28 decreasing solid waste disposal by identifying incentives for local
29 governments to locate and approve new or expanded facilities that
30 meet and exceed their capacity needs, and to recognize local
31 agencies that make significant contributions to the state's overall
32 solid waste reduction and recycling objectives through the siting
33 of facilities for the processing and composting of materials diverted
34 from the solid waste stream.

35 (10) The provisions in existing law that confer broad discretion
36 on local agencies to determine aspects of solid waste handling that
37 are of local concern have significantly contributed to the statewide
38 diversion rate exceeding 50 percent, and further progress toward
39 decreasing solid waste disposal requires that this essential element
40 of local control be preserved.

(11) Accordingly, by setting in this act new statewide solid waste diversion requirements in Section 41780 of the Public Resources Code, new solid waste diversion targets in Section 41780.01 of the Public Resources Code, and new commercial waste recycling requirements in Section 42649 of the Public Resources Code, the Legislature does not intend to limit a right afforded to local governments pursuant to Section 40059 of the Public Resources Code, or to modify or abrogate in any manner the rights of a local government or solid waste enterprise with regard to a solid waste handling franchise or contract granted on or before January 1, 2010.

SEC. 2. Section 41780 of the Public Resources Code is amended to read:

41780. (a) Each jurisdiction's source reduction and recycling element shall include an implementation schedule that shows both of the following:

(1) For the initial element, the jurisdiction shall divert 25 percent of all solid waste by January 1, 1995, through source reduction, recycling, and composting activities.

(2) Except as provided in Sections 41783 and 41784, for the first and each subsequent revision of the element, the jurisdiction shall divert 50 percent of all solid waste on and after January 1, 2000, through source reduction, recycling, and composting activities.

(3) Except as provided in Sections 41783 and 41784, for each subsequent revision of the element, the jurisdiction shall divert 60 percent of all solid waste on or after January 1, 2015, through source reduction, recycling, and composting activities.

(b) This part does not prohibit a jurisdiction from implementing source reduction, recycling, and composting activities designed to exceed these requirements.

SEC. 3. Section 41780.01 is added to the Public Resources Code, to read:

41780.01. The board shall adopt policies, programs, and incentives to ensure that solid waste generated in this state is source reduced, recycled, or composted in accordance with the following schedule:

(a) On and before January 1, 2015, ensure that 60 percent of all solid waste generated is source reduced, recycled, or composted.

1 (b) On or before January 1, 2020, and annually thereafter, ensure
2 that 75 percent of solid waste generated is source reduced, recycled,
3 and composted.

4 SEC. 4. Section 42649 is added to the Public Resources Code,
5 to read:

6 42649. (a) The owner or operator of a business that contracts
7 for solid waste services and generates more than four cubic yards
8 of total solid waste and recyclable materials that are not solid waste
9 per week shall arrange for recycling services, consistent with state
10 or local laws or requirements, including a local ordinance or
11 agreement, applicable to the collection, handling, or recycling of
12 solid waste, to the extent that these services are offered and
13 reasonably available from a local service provider.

14 (b) On or before January 1, 2011, each city, county, solid waste
15 authority, or other joint powers authority located within a county
16 with a population of 200,000 or more shall adopt a commercial
17 recycling ordinance that is consistent with this section.

18 (c) A commercial recycling ordinance adopted pursuant to this
19 section shall include, at a minimum, both of the following:

20 (1) An enforceable requirement that a commercial waste
21 generator take one of the following actions:

22 (A) Source separate specified recyclable materials from solid
23 waste and subscribe to a basic level of recycling service that
24 includes the collection of those recyclable materials or specific
25 provisions for authorized self-hauling.

26 (B) Subscribe to an alternative type of recycling service, which
27 may include mixed waste processing, that yields diversion results
28 comparable to source separation.

29 (2) Educational, implementation, and enforcement provisions.

30 (d) For the purposes of this section, “business” means a
31 commercial entity operated by a firm, partnership, proprietorship,
32 joint stock company, corporation, or association that is organized
33 as a for-profit or nonprofit entity.

34 (e) This section does not limit the authority of a local agency
35 to adopt, implement, or enforce a local commercial recycling
36 ordinance that is more stringent or comprehensive than the
37 requirements of this section or limit the authority of a local agency
38 in a county with a population of less than 200,000 to require
39 commercial recycling.

(f) This section does not modify or abrogate in any manner either of the following:

(1) A franchise granted or extended by a city, county, or other local government agency on or before January 1, 2010.

(2) A contract, license, or permit to collect solid waste previously granted or extended by a city, county, or other local government agency on or before January 1, 2010.

(3) The existing right of a business to sell or donate their recyclable materials.

(g) (1) When adopting an ordinance pursuant to this section, a local agency may consider the adequacy of areas for collecting and loading recyclable materials.

(2) Notwithstanding paragraph (1), a local agency shall not consider the adequacy of areas for collecting and loading recyclable materials for purposes of determining noncompliance with this section at a development project, as defined pursuant to Section 42905, if the development project was approved by the local agency on or after September 1, 1994.

SEC. 5. Section 48000 of the Public Resources Code is amended to read:

48000. (a) An operator of a disposal facility shall pay a fee quarterly to the State Board of Equalization that is based on the amount, by weight or volumetric equivalent, as determined by the board, of all solid waste disposed of at each disposal site.

(b) On and after January 1, 2010, the amount of the fee shall equal three dollars and ninety cents (\$3.90) per ton.

(c) The board and the State Board of Equalization shall ensure that all the fees for solid waste imposed pursuant to this section that are collected at a transfer station are paid to the State Board of Equalization in accordance with this article.

(d) Notwithstanding Section 48001, on and after January 1, 2010, an amount of two dollars and fifty cents (\$2.50) of the fee imposed for each ton of solid waste disposed of at each disposal site shall be available to the board for expenditure pursuant to Section 48001.5.

SEC. 6. Section 48001.5 is added to the Public Resources Code, to read:

~~48001.5.— The fee revenues collected by the State Board of Equalization pursuant to subdivision (c) of Section 48000 shall be~~

1 48001.5. *The fee amount of two dollars and fifty cents (\$2.50)*
2 *per ton of solid waste described in subdivision (d) of Section 48000*
3 *that is collected by the board shall be available to the board, upon*
4 *appropriation by the Legislature, for expenditure by the board*
5 *according to the following:*

6 (a) Between January 1, 2010, and January 1, 2015, the fee
7 revenue shall be apportioned on a per capita basis to jurisdictions
8 for the expansion of source reduction, recycling, and composting
9 programs, including residential recycling programs and commercial
10 recycling programs, as well as the development of new and
11 expanded recycling and composting infrastructure.

12 (b) On and after January 1, 2015, the fee revenues shall be
13 apportioned on a per capita basis to jurisdictions that have achieved
14 the diversion rate specified in paragraph (3) of subdivision (a) of
15 Section 41780 for use pursuant to subdivision (a) of this section.
16 For jurisdictions that have not reach the diversion rate required in
17 paragraph (3) of subdivision (a) of Section 41780, the board shall
18 expend the fee revenues to establish local programs to help the
19 jurisdictions achieve the diversion rate required by paragraph (3)
20 of subdivision (a) of Section 41780.

21 SEC. 7. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 a local agency or school district has the authority to levy service
24 charges, fees, or assessments sufficient to pay for the program or
25 level of service mandated by this act, within the meaning of Section
26 17556 of the Government Code.